IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 636 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COSMOS DEVELOPMENT CORPORATION

Versus

NAJMUNISINH MIRSAHEB MIYA SAIYED

Appearance:

1. Civil Revision Application No. 636 of 1998

MR TUSHAR MEHTA for Petitioner No. 1-4

RULE SERVED for Respondent No. 1-3,5-7

NOTICE SERVED for Respondent No. 4

MR DJ BHATT for Respondent No. 8

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 10/05/2005

ORAL JUDGEMENT

1. This revision application is directed against the order dated 11/03/1998 passed below Exh. 46 by the

learned City Civil Court, Ahmedabad in Civil Suit No. 1303 of 1992, whereby the said application was allowed and the third party Amjadali Gazanfarali Bhukari was permitted to be joined as defendant no. 9 in the suit.

2. I have heard the learned advocates for the respective parties and have perused the relevant material on record. The trial court while permitting the third party to be joined as defendant no. 9 has recorded a finding of fact that the third party derives title from a decree passed by the competent court and, therefore, his right title interest over the suit premises will have to be considered while adjudicating this suit. Any order obtained by the plaintiffs against the present defendant concerning the suit land would be an order passed behind the back of the third party who claims to be the co-owner of the suit property and that order would not be binding to the third party. Thus, I am in complete agreement with the order passed by the trial court. Moreover. if defendant no. 9 is permitted to be joined as third party, no prejudice would be caused to the original defendants no. 1 to 4.

3. However, the suit is of the year 1992. Therefore, the trial court may be directed for expediting the hearing of the Suit, if it is not disposed of.

4. Accordingly the trial Court is directed to hear and dispose of the Suit being Civil Suit No. 1303 of 1992 pending in the Court of the learned City Civil Court, Ahmedabad as expeditiously as possible and preferably within a period of one year from the date of receipt of writ of this order.

5. With the above observations and directions, the revision application stands disposed of. Rule is discharged with no order as to costs. Interim relief if any, stands vacated. Office is directed to send writ of this order forthwith.

[K.S. JHAVERI, J.]

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